

REFERRAL PARTNER AGREEMENT

This Referral Partner Agreement (this “Agreement”) is effective as of ____, 2024 (the “Effective Date”), by and between _____ (“Partner”) and AI Software, LLC d/b/a Capacity, Textel, LumenVox and Denim Social (the “Company”). Each of Partner and the Company may be referred to as a “Party,” and together, the “Parties.”

WHEREAS, the Company provides certain software and services (as defined in Exhibit A, the “Services”), and Partner desires to refer customers requiring Services to the Company, pursuant to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual promises contained in the Agreement, and for other good and valuable consideration, the sufficiency and receipt of all of which is hereby acknowledged, the Parties hereto do mutually agree as follows:

1. Definitions.

- 1.1. “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.
- 1.2. “Customer” means new potential customers for products and/or services produced, licensed, and/or delivered by Company.
- 1.3. “Territory” means the United States unless otherwise agreed.
- 1.4. “Services” means all products and/or services produced, licensed, and/or delivered by Company, as updated from time to time.

2. Appointment.

- 2.1. Subject to the terms and conditions of this Agreement, the Company hereby appoints Partner as an independent contractor for the purpose of marketing the Services to Customers in the Territory and referring Customers to the Company. Partner hereby accepts such appointment. This Agreement does not in any way limit Partner’s right to promote, market, license, resell or distribute any other product or service.
- 2.2. Partner may use subagents to market the Services. Company will incur no obligation to subagent, including any obligation to pay commissions.
- 2.3. The Company shall: (i) pay Partner commissions as provided in this Agreement; (ii) process Customer orders; (iii) provision ordered Services; and (iv) bill, collect from and provide customer support services to Customers.

2.4. Partner will make referrals to Company in accordance with Exhibit B and submit Registration Forms in accordance with Exhibit C.

3. Commissions.

3.1. Commissions (as defined in Exhibit A) shall be paid on amounts received by the Company from a new Customer. Commissions will be payable following receipt of funds by Company in accordance with Company's standard practices. Each Commission payment shall be accompanied by a report, itemized by the Company, showing the Commissions, amount due to Partner for each period and the payment status.

3.2. A Customer is considered a new Customer of Company which: (1) is not an existing customer, is not a prior customer or has not had an active opportunity with Company in the prior 6 months; (2) has not been referred to Capacity by a third party within the prior 6 months; and (3) has been referred to Capacity by Partner within the preceding 6 months. For avoidance of doubt, any party that becomes a Customer after 9 months after Partner's introduction shall not be considered a new Customer.

3.3. If the Company pays Commissions to Partner in connection with a Customer invoice that is not paid in full by the Customer, or amounts that are later refunded or credited to the Customer, the Company may deduct the unpaid, refunded or credited amount from future Commissions owed to Partner.

3.4. Partner may dispute a Commission payment, or an offset within sixty days of the statement, payment or offset date. The Company shall use commercially reasonable efforts to respond to the dispute within thirty days.

3.5. Notwithstanding any other provision of this Agreement to the contrary, except for a termination under Section 6.2.1 or 6.2.2, Company will continue to pay Partner full commissions after termination of this Agreement for so long as Customers procured by Partner continue to utilize Company Services including renewals and upsells thereto.

3.6. If feasible, Partner may be provided online access to Customer invoices and may use such access to verify the accuracy of commissions relative to the Customers procured by the Partner hereunder and the Services provided to such Customers. Alternatively, Partner may be provided written reports on commissions relative to the Customers procured by the Partner hereunder and the Services provided to such Customers.

4. Support; Training

4.1. Company shall provide customer success support for the Services directly to Customer. Partner shall have no customer success support obligations with respect to the Services.

4.2. Company will make available sales assistance and resources as reasonably requested by Partner. Company and Partner may mutually agree on a sales training plan, under which

the Company shall provide Partner with sales training and materials. Company may also provide periodic training on all upgrades to the Services.

- 4.3. Company may provide Partner, at no charge, a license to Company's licensed SaaS platform for the intended purpose of Partner becoming trained on the Services and demonstrating the Services to prospective Customers. The Services and applicable licensing provided to Customers is at the sole discretion of Company.

5. Term and Termination

- 5.1. The term of this Agreement shall be for one year (the "Initial Term") and shall automatically renew for subsequent periods of one year each thereafter (each a "Renewal Term" and all Renewal Terms together with the Initial Term, the "Term") unless sixty (60) days prior to the expiration of the Initial Term or the then current Renewal Term, either Party gives written notice of intent not to renew.

- 5.2. This Agreement may also be terminated prior to the conclusion of the Term upon giving written notice of termination:

- 5.2.1. By either Party as a result of a default by the other Party under this Agreement and failure to cure the default within thirty (30) days after notice of said default is given; or

- 5.2.2. By either Party immediately in the event of insolvency, receivership, voluntary or involuntary bankruptcy, or an assignment for the benefit of creditors of the other Party.

- 5.3. Upon termination of this Agreement for any reason, (i) Partner shall promptly return to the Company all forms, literature, materials, equipment and products provided by or related to the Company then in the possession of Partner and cease marketing the Services, and (ii) the Company shall pay all Commissions due and continue paying Commissions until such time as the Company no longer provides Services to Customers, unless this Agreement is terminated by Company due to an uncured breach of the Agreement by Partner or if the amount of commission paid drops below \$500 per month after the termination of the Agreement.

6. Branding; Marketing; Trademarks

- 6.1. Company will make available to Partner marketing materials, at no charge to Partner, for the exclusive purpose of marketing and demonstrating the Services (collectively, "Marketing Materials"). The Company hereby grants to Partner, during the Term, a non-exclusive, non-transferable, fully paid, royalty free, right and license to use, reproduce and distribute the Marketing Materials and Trademarks (as defined below) for the purpose of promoting and marketing the Services to current and prospective subagents and Customers. Partner also may develop its own promotional material for the Services, subject to Company approval.

- 6.2. Neither Party may issue a press release without the non-issuing Party's prior written consent, which may not be unreasonably withheld, conditioned or delayed.
- 6.3. "Trademarks" means all names, marks, logos, designs, trade dress and other brand designations used by the Parties in connection with their respective products and services. The Parties acquire no right, title or interest in each other's Trademarks other than the foregoing limited license.

7. Confidential Information

- 7.1. "Confidential Information" means all information disclosed by a Party ("Disclosing Party") to the other Party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information shall include, without limitation the following (in each case whether in printed, computer, electronic or other form): trade secrets; know-how; customer lists or prospective customer lists; names, addresses, contact persons and other information concerning customers or prospective customers; information regarding the needs and preferences of customers or prospective customers or the terms on which they may be willing to accept or provide services or goods; business, operational and marketing methods, plans and strategies; information about markets and key personnel; financial data, including information about pricing, costs and profits; computer programs; contracts and information concerning the terms of contracts; payment and process information; invoices, commissions, and business financial information operations; and other information not readily available to the public. Confidential Information also includes all analyses, compilations, studies, reports, manuals, notes, correspondence and other documents and materials that contain or are based in whole or in part upon any Confidential Information, and all copies thereof, whether in printed, computer, electronic or other form, and whether prepared in whole or part by the Partner, the Company or any other person or entity. Confidential Information does not include any information that (i) is or becomes generally available to and known by the public (other than as a result of any breach of this Agreement directly or indirectly by the Receiving Party), (ii) becomes available to the Receiving Party from a source that after due inquiry is reasonably not believed to be prohibited from disclosing such information to the Receiving Party, (iii) is independently developed by the Receiving Party, or (iv) the Disclosing Party otherwise approves the disclosure in writing. Upon the request of the Disclosing Party, Receiving Party shall immediately return to the Disclosing Party (and shall not retain) any and all items of the Disclosing Party's property and Confidential Information.
- 7.2. The Company and Partner each agrees that during the Term and at all times thereafter (and regardless of the reason for any termination of this Agreement), the Receiving Party shall not divulge or appropriate to its his or her own use or to the use of any other person or entity any Confidential Information of the Disclosing Party without the prior written consent of the Disclosing Party unless required under applicable law or necessary to perform the Receiving Party's obligations under this Agreement.

- 7.3. Permitted Disclosure. Neither Party will disclose the terms of this Agreement, any customer purchases or order form, or any Confidential Information to any third party other than its Affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this Section 9.
- 7.4. Compelled Disclosures. If the Receiving Party or any of its representatives is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by applicable law, the Receiving Party shall: (i) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under this Section; and (ii) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives its rights under this section or, after providing the notice and assistance required under this section, the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose and, on the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.
- 7.5. Equitable Relief. The Receiving Party hereby acknowledges that a breach of this Section 9 may cause irreparable harm to the Disclosing Party, and that monetary damages would not be an adequate remedy. Accordingly, the Receiving Party hereby agrees not to oppose any request by the Disclosing Party for equitable relief such as a temporary restraining order, or a preliminary or final injunction, on the grounds that the Disclosing Party has an adequate remedy at law. These specific remedies are in addition to any other remedies which the Disclosing Party may be entitled to at law or in equity.

8. Warranties

- 8.1. Company warrants that the Services do not infringe any U.S. patent, copyright, trademark or other intellectual property rights of a third party.
- 8.2. Company warrants that, throughout the Term, the functionality of the Services will not be materially decreased.
- 8.3. Each Party warrants that, throughout the Term, it will comply with applicable laws and regulations in the performance of this Agreement, including, without limitation, export, anti-money laundering, anti-bribery and data protection laws.
- 8.4. Partner warrants that, throughout the Term, it: (a) has extensive expertise as a sales representative within the Territory and is fully capable of assisting Company as set forth in this Agreement; (b) will refrain from any conduct that tends to damage the reputation

of Company or the Services; (c) will refrain from any unethical conduct or any other conduct that would damage the reputation of Company or the Services; (d) will make no false or misleading representations or statements concerning Company or the Services; and (e) has not entered and will not enter into any agreement or relationship with any third party including any right which would conflict with this Agreement.

9. Indemnification

- 9.1. Partner will indemnify, defend and hold the Company harmless from and against any Indemnified Liabilities arising from or related to (i) any breach of this Agreement, (ii) the gross negligence or wilful misconduct of Partner, it's directors, officers, partners, salespeople, subagents, employees or contractors (collectively the "Partner Parties"), or (iii) any misrepresentation of the Partner Parties. "Indemnified Liabilities" means any and all claims, demands, loss (financial or otherwise), damage, liabilities, costs, fees, increased taxes or expenses (including without limitation, court costs and reasonable attorney's fees), which may be incurred or which may be claimed by any person or entity.
- 9.2. The Company will indemnify, defend and hold Partner harmless from and against any Indemnified Liabilities related to (i) any breach of this Agreement, (ii) the gross negligence or wilful misconduct of Company, it's directors, officers, contractors, employees or contractors (collectively the "Company Parties"), (iii) any claim that the Services infringes or misappropriates a third party copyright, trade secret, trademark or patent.
- 9.3. In no event will a Party have any liability arising out of or related to this Agreement or its subject matter, whether under any theory of contract, negligence, intentional or unintentional tort, or any other legal theory, for lost revenue, lost profits, lost damages, loss of data, loss of use, or any incidental, indirect, consequential, special or punitive damages, whether or not the Company or Partner may have anticipated or been advised of such damages.
- 9.4. EXCEPT DAMAGES FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE GREATER OF \$500,000 OR AMOUNTS ACTUALLY PAID BY AND DUE FROM THE COMPANY TO PARTNER IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY.

10. Miscellaneous

- 10.1. Notices. All notices required hereunder shall be in writing and delivered either: in person; by email; by certified or registered mail, return receipt requested, postage prepaid; or by a recognized prepaid courier service providing a delivery receipt (such as Fedex, UPS or USPS) to the address of the party as set forth in the Signature Page

of this Agreement, as such address may be changed by notice to the other Party. A notice shall be deemed to be delivered upon delivery or refusal as noted on the delivery receipt. A copy of any notice to Company shall also be sent to legal@capacity.com.

- 10.2. Amendment; Waiver. Except as otherwise provided herein, this Agreement and any Exhibits hereto may not be amended, altered or modified except by a writing executed by the parties hereto. The provisions of this Agreement may not be waived unless such waiver is set forth in a writing signed by the Party sought to be bound. No failure or delay by either Party in exercising any right or remedy under this Agreement will waive any provision of this Agreement, nor will any single or partial exercise by either Party of any right or remedy under this Agreement preclude such Party from otherwise or further exercising these rights or remedies or any other rights or remedies.
- 10.3. Benefit and Assignment. This Agreement shall inure to the benefit of the Parties and their respective authorized assigns and successors. The rights and obligations of Partner may not be assigned without the prior written consent of Company. Notwithstanding the foregoing, a Party may assign its rights under this Agreement, and delegate its duties hereunder, in connection with the sale of all or substantially all of its assets, or any other transaction that constitutes a change of control upon notice to the non-assigning Party.
- 10.4. Governing Law. This Agreement shall be governed by, construed and interpreted under the laws of the Delaware.
- 10.5. Waiver of Jury Trial. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY AND ALL RIGHT THAT PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL PROCEEDING or LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER DOCUMENTS EXECUTED IN CONNECTION HERewith, OR IN RESPECT OF ANY COURSE OF CONDUCT, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH OF THE PARTIES TO ENTER INTO THIS AGREEMENT.
- 10.6. Severability. In case any provision of this Agreement shall be invalid, illegal or unenforceable, it shall, to the extent possible, be modified in such manner as to be valid, legal and enforceable but so as to most nearly retain the intent of the parties, and if such modification is not possible, such provision shall be severed from this Agreement, and in either case the illegality, invalidity or unenforceability of any provision of this Agreement shall not affect the remainder of this Agreement.
- 10.7. Force Majeure. Neither Party shall be held liable or responsible to the other party nor be deemed to have breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement to the extent, and for so long as, such failure or delay is caused by or results from causes beyond the reasonable control of the affected

Party, regardless of whether it was foreseeable, including but not limited to acts of God, flood, fire, earthquake, war, terrorism, riot, civil unrest, epidemic, pandemic, embargoes, strikes, labor stoppages or slowdowns, any action taken by a governmental or public authority, or a shortage of adequate power, telecommunications or transportation.

- 10.8. Survival. All representations, warranties, and covenants contained herein shall survive any termination or expiration of this Agreement to the extent set forth herein.
- 10.9. Entire Agreement. This Agreement and the Exhibits attached hereto contains the entire understanding of the parties hereto and supersedes all prior agreements with respect to the subject of this Agreement. Each Party acknowledges and agrees that the other Party has not made any representations, warranties or agreements of any kind, except as expressly set forth herein.
- 10.10. Execution. This Agreement may be executed in two or more identical counterparts (whether by electronic signature, in facsimile, email, in PDF or original, or acknowledgment through a webpage), each of which shall constitute an original as against the Party whose signature appears thereon, and all of which together shall constitute one and the same instrument.

EXHIBIT A

Definition of Services and Commission Schedule

Services: Company currently does business under four brands, which can be referred to potential new Customers:

- Capacity www.capacity.com
- Textel www.textel.net
- LumenVox www.lumenvox.com
- Denim Social www.denimsocial.com

Commission:

Company shall pay to Partner a commission equal to ten percent (10%) of Year 1 Annual Recurring Revenue collected by Company from each new Customer referred by Partner. Company shall pay to Partner a commission equal to five percent (5%) of Year 2 Annual Recurring Revenue collected by Company from each new Customer referred by Partner. No commission will be paid on Year 3 or beyond. Annual Recurring Revenue is based on license fees in a Company service order/agreement, and not on professional services, carrier or other pass-through fees or implementation services revenue.

Company will have sole discretion over whether to enter into a service order/agreement to license Services to any Customer and over the terms of any such agreement.

Exhibit B

Deal Registration Process

1. Definition of a Deal:

A Deal is defined as a potential Customer that is identified and qualified by the Partner where the Partner and/or its sub-agent is actively engaged in the sales process, and the Company has not engaged with the Customer directly or through another partner within the last six (6) months.

2. Deal Registration Process:

Partner must submit the Deal Registration via the Lead Form available in the PartnerStack portal or through the Partner's unique referral link in the PartnerStack portal. If the PartnerStack service is unavailable, Partners may send an email using a referral form to partners@capacity.com for each new opportunity. They must include all necessary information about the Customer, including contact information and details of the opportunity. The referral form is attached hereto as Exhibit C.

3. Approval and Notification:

Company will review the Deal Registration and determine if the deal is eligible for registration. Company will notify the Partner within five business days of the status of the registration. If there is no response, the deal will be considered not registered. Company reserves the right to approve or reject any Deal Registration at its sole discretion.

4. Deal Protection:

If Company approves the Deal Registration, Company will provide deal protection for the Partner for a period of up to six (6) months from the date of registration. During this period, Company will not engage with the Customer through another partner for the registered opportunity. At the end of the period, if the opportunity is still active and ongoing, Company will have the option to extend the registration period for additional three (3) month periods, which will not be unreasonably denied. If Company rejects a registration for a Customer opportunity that Company is not already engaged with, Company is prohibited from selling to that Customer directly for a period of ninety (90) days.

Exhibit C

PROSPECT REGISTRATION FORM

Referring Party Contact Information: *all fields required in this section*

Referring Party Name: _____ Phone: _____
Individual contact: _____ Email: _____
Address: _____

Date: _____

Prospect Name: _____

Specific Description of the Prospect: _____

Prospect Contact Information:

Name: _____ Title: _____
Ph: _____ email: _____
Cell: _____ Fax: _____

Prospect Project Description (if available):

Services (check which is applicable):

- Capacity www.capacity.com
- Textel www.textel.net
- LumenVox www.lumenvox.com
- Denim Social www.denimsocial.com

Describe the nature and specific opportunity to include the following:

Department or Division: _____

Project Budget (if known): _____

Purchase Timeframe (if known): _____

Relevant Project Information: _____

IN WITNESS WHEREOF, Company has approved this Prospect Registration Form as of the Accepted Date written below.

By: _____

Print Name: _____

Title: _____

Accepted Date: _____